IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SEVENTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 15286 of 2004

Between:

Potluri Srinivas S/o. Satyanarayana
R/o. Gubbalavari Street, R.R Pet, Eluru West Godavari District.

..... PETITIONER

AND

1 The Designated Authority Cum Mandal Revenue Officer Pedavegi Mandal,

West Godavari District.
2 The Additional Divisional Engineer (Operation), A.P. Eastern Power

Distribution Company Ltd., C/o. Electrical Sub Station
Janampet Village, Pedavegi Mandal, West Godavari District.
3 Deputy Director, Ground Water Department Ashok Nagar, Eluru, West

Godavari District.
4 Chilakala Pudi Alivelu Manga Tayaru W/o. Chitti Babu, Female, Hindu
R/o. Jagannatha Puram Village, Pedavegi Mandal,West Godavari

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of writ of mandamus declaring the inaction on the part of the respondents 1 to 3 on the complaint /legal notice got issued on Dt.16.8.2004 for closure of bore well by the 4th respondent in prohibitory distance from my pre existing bore well is illegal, irregular, violative of articles 14,21 and 300-A of Constitution of India and also the provisions of A.P. Water, Land and Trees Act, 2002 and consequently direct the respondents 1 to 3 to close bore well dug by 4th respondent in violation of said act.

Counsel for the Petitioner:MR.SATYANARAYANA NIMMAGADDA

Counsel for the Respondents 1 and 3: GP FOR REVENUE

Counsel for the Respondent No.2 : Smt.Vinobha Devi

The Court at the stage of admission made the following :

ORDER

The present writ petition is filed under Article 226 of the Constitution of India, seeking a direction to the 1st respondent to take necessary action against the 4th respondent, for digging a bore well in the prohibitory distance, from his pre existing bore well, in violation of the provisions of A.P.Water, Land and Trees Act, 2002 (for short 'the Act').

The case of the petitioner in brief is that about fiver years ago, 4th respondent dug a bore well in her land to a depth of 300 ft. and fitted with submersible motor to draw water, due to which, his open well completely went dry. Thereafter, he dug another bore well and electrified with 7 ½ HP submersible motor pump set. While the matter stood thus, on 04.08.2004, the 4th respondent brought a drilling rig for digging another bore well in her well, within 140 mts from his bore well, which according to him is arbitrary and illegal.

Under Section 9 of the Act, there is a prohibition on water pumping, in certain areas. The designated officer, with the approval of the Authority, may prohibit water pumping by individuals, groups of individuals or private organizations, in any particular area, if in his view that such water pumping, in such area, is likely to cause damage to the level of ground water, or cause deterioration, or damage to natural resources or environment. Further, a declaration has to be issued, about the over exploited areas, as per Section 11 of the Act. The petitioner did not say as to whether any such declaration has been issued under Sub-Section (1) of Section 11 of the Act. In the absence of which, the respondents cannot be directed to close the bore well dug by the 4th respondent.

I see no grounds to entertain the writ petition. Accordingly, the writ petition is dismissed. However, if the petitioner feels that his easementary rights are affected, it is always open for him to approach the competent Civil Court seeking appropriate relief. No order as to costs.

07-10-2004

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To

1 The Designated Authority Cum Mandal Revenue Officer Pedavegi Mandal,

West Godavari District.

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3 The Deputy Director, Ground Water Department Ashok Nagar, Eluru, West

Godavari District.

4. Two CCS to the G.P.for Revenue, High Court Buildings, Hyderabad (OUT)

5. 2 CD copies.